

## MONTEREY COUNTY ZONING ADMINISTRATOR

|   |  |                                   |
|---|--|-----------------------------------|
| <b>Meeting:</b> July 28, 2011   | <b>Time:</b> 1:30 P.M  | <b>Agenda Item No.:</b> 3, 4, & 5 |
| <p><b>Project Description:</b> <i>PLN100603 (Ventana Property Holdings LLC &amp; The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust)</i> – Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years. The property is located at 38740 Los Coches Road, Soledad (Assessor's Parcel Numbers 183-021-035-000 and 183-021-036-000), Central Salinas Valley Area Plan.</p> <p><i>PLN100607 (Smith-Monterey, LLC)</i> – Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years. The property is located east of the intersection of 43701 State Hwy 101, Greenfield (Assessor's Parcel Number 221-072-005-000), Central Salinas Valley Area Plan.</p> <p><i>PLN100609 (Salinas Land Co.)</i> – Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years. The property is located at the southeast of the intersection of Highway 101, Central Avenue, and Thompson Canyon Road, Soledad (Assessor's Parcel Number 221-102-013-000), Central Salinas Valley Area Plan.</p> |  |                                   |
| <p><b>Project Locations:</b> <i>PLN100603</i> – 38740 Los Coches Road, Soledad</p> <p><i>PLN100607</i> – 43701 State Hwy 101, Greenfield</p> <p><i>PLN100609</i> – Southeast of the intersection of Highway 101, Central Avenue, and Thompson Canyon Road, Soledad</p>  | <p><b>APNs:</b> <i>PLN100603</i> – 183-021-035-000 and 183-021-036-000</p> <p><i>PLN100607</i> – 221-072-005-000</p> <p><i>PLN100609</i> – 221-102-013-000</p>   |                                   |
| <p><b>Planning File Numbers:</b> PLN100603, PLN100607, and PLN100609</p>  | <p><b>Owners:</b> <i>PLN100603</i> – Ventana Property Holdings LLC &amp; The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust</p> <p><i>PLN100607</i> – Smith-Monterey, LLC</p> <p><i>PLN100609</i> – Salinas Land Co.</p> <p><b>Agent:</b> Kimley-Horn and Associates, Inc.</p> <p><b>Lessee:</b> Tower Associates, LLC</p> |                                   |
| <p><b>Planning Area:</b> Central Salinas Area Plan</p>  | <p><b>Flagged and staked:</b> No</p>   |                                   |
| <p><b>Zoning Designation:</b> Farmland, 40 acres per unit or “F/40”</p>   |  |                                   |
| <p><b>CEQA Action:</b> Categorically Exempt per Section 15306</p>   |  |                                   |
| <p><b>Department:</b> RMA - Planning Department</p>   |  |                                   |

**RECOMMENDATION:**

Staff recommends that the Zoning Administrator adopt resolutions to:

- 1) Categorically exempt the Use Permits (PLN100603, PLN100607, and PLN100609) from environmental review pursuant to CEQA Guidelines Section 15306;
- 2) Approve PLN100603, based on the findings and evidence and subject to the conditions of approval (**Exhibit C**);
- 3) Approve PLN100607, based on the findings and evidence and subject to the conditions of approval (**Exhibit D**); and
- 4) Approve PLN100609, based on the findings and evidence and subject to the conditions of approval (**Exhibit E**).

**PROJECT OVERVIEW:**

The applicant has requested three separate entitlements to install 198-foot Meteorological (MET) data collection towers on three different properties within the Central Salinas Valley. The applicant proposes to install these three towers in different locations in order to collect wind data from MET Data Collection Towers (PLN100603, PLN100607, and PLN100609)

different points on the valley floor. Work to erect each tower will be minimal and will be completed in less than one day. The tower will be delivered as a "kit" and assembled onsite, with a maximum site disturbance of approximately 16 square feet for the base plate and anchors. Once the towers are functioning, wind data will be transmitted 24-hours a day. Electricity to power the transmitter and flashing warning lights will be obtain through solar panels.

All three properties are zoned Farmland with a 40 acre minimum (F/40). The proposed MET towers are allowed uses, provided a Use Permit is first obtained, pursuant to Section 21.30.050.W of the Monterey County Zoning Ordinance (Title 21). Although MET towers are not specifically mentioned as an allowed use, uses similar in density, intensity, and character to commercial and non-commercial wind energy systems are.

The projects have been reviewed for consistency with the Monterey County 2010 General Plan, the Central Salinas Area Plan, and Title 21. Project issues regarding floodplain and health and safety have been identified and are discussed in detail within **Exhibit B** of the staff report.

California Environmental Quality Act (CEQA) Guidelines Section 15306, categorically exempts data collection activities which do not result in a serious or major disturbance to an environmental resource and which are strictly for information gathering purposes. The projects meet this Section and therefore, an environmental review was not required.

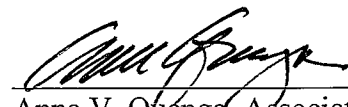
**OTHER AGENCY INVOLVEMENT:** The following agencies and departments reviewed this project:

- √ RMA - Public Works Department
- √ Environmental Health Bureau
- √ Water Resources Agency
- √ Mission Soledad Fire Protection District
- √ South County Fire Protection District

Agencies that submitted comments are noted with a check mark ("√"). Conditions recommended by the Water Resources Agency and the RMA-Planning Department have been incorporated into the Condition Compliance/Mitigation Monitoring and Reporting Plan attached as Exhibit 1 to the draft resolutions for PLN100603, PLN100607. Only the RMA-Planning Department has required conditions for PLN100609 (**Exhibits C, D, and E**).

The proposed projects were referred to and heard by the Agricultural Advisory Committee on April 28, 2011 to review compatibility with their Farmland zoning and Williamson Act Contract. No project issues were identified; however, the Advisory Committee recommended a condition of approval requiring the installation of warning/safety measures for low flying aircraft. The condition of approval has been incorporated.

Note: The decision on this project is appealable to the Planning Commission.



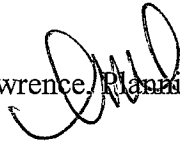
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Anna V. Quenga, Associate Planner  
(831) 755-5175, quengaav@co.monterey.ca.us  
July 14, 2011

cc: Front Counter Copy; Zoning Administrator; Mission Soledad Fire Protection District; South County Fire Protection District; Public Works Department; Environmental Health Bureau; Water Resources Agency; Laura Lawrence, Planning Services Manager; Anna V. Quenga, Project Planner; Carol Allen, Senior Secretary; Ventana Property Holdings LLC & The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust, Owners; Smith-Monterey, LLC, Owners; Salinas Land Co., Owners; Kimley-Horn and Associates, Inc., Agent; Tower and Associates, Lessee; Planning File PLN100603; Planning File PLN100607; Planning File PLN100609.

Attachments: Exhibit A-1 Project Data Sheet for PLN100603  
Exhibit A-2 Project Data Sheet for PLN100607  
Exhibit A-3 Project Data Sheet for PLN100609  
Exhibit B Project Discussion  
Exhibit C Draft Resolution for PLN100603, including:  
1. Conditions of Approval  
2. Site Plan and Elevations  
Exhibit D Draft Resolution for PLN100607, including:  
1. Conditions of Approval  
2. Site Plan and Elevations  
Exhibit E Draft Resolution for PLN100609, including:  
1. Conditions of Approval  
2. Site Plan and Elevations  
Exhibit F-1 Vicinity Map for PLN100603  
Exhibit F-2 Vicinity Map for PLN100607  
Exhibit F-3 Vicinity Map for PLN100609  
Exhibit G Agricultural Advisory Committee Minutes

This report was reviewed by Laura Lawrence, Planning Services Manager.



# EXHIBIT A-1

## Project Data Sheet for PLN100603

Project Title: VENTANA PROPERTY HOLDINGS LLC & THE ROY C. GIANOLINI AND VIRGINIA B. GIANOLINI 2000 FAMILY TRUST

Location: 38740 Los Coches Road,  
Soledad

Primary APN: 183-021-035-000 &  
183-021-036-000

Applicable Plan: Central Salinas AP

Coastal Zone: No

Permit Type: Use Permit

Zoning: F/40

Environmental Status: Exempt per 15306

Plan Designation: Farmland

Advisory Committee: South County LUAC

Final Action Deadline (884): 6/29/2011

### Project Site Data:

Lot Size: 373 Acres

Coverage Allowed: 5%  
Coverage Proposed: .00000009%

Existing Structures (SF): N/A

Height Allowed: 200 Feet

Proposed Structures (SF): 16 Sq Ft

Height Proposed: 198 Feet

Total SF: 16 Sq Ft

Floor Area Ratio Allowed: N/A  
Floor Area Ratio Proposed: N/A

### Resource Zones and Reports:

Environmentally Sensitive Habitat: N/A

Erosion Hazard Zone: High

Biological Report #: N/A

Soils Report #: N/A

Forest Management Rpt. #: N/A

Archaeological Sensitivity Zone: Low

Geologic Hazard Zone: Undetermined

Archaeological Report #: N/A

Geologic Report #: N/A

Fire Hazard Zone: Agricultural

Historic Report #: N/A

### Other Information:

Water Source: N/A

Sewage Disposal (method): N/A

Water Dist/Co: N/A

Sewer District Name: N/A

Fire District: Mission Soledad FPD

Total Grading (cubic yds.): 1 cubic yard

Tree Removal: N/A

## EXHIBIT A-2

### Project Data Sheet for PLN100607

Project Title: SMITH-MONTEREY, LLC

Location: 43701 State Hwy 101, Greenfield

Primary APN: 221-072-005-000

Applicable Plan: Central Salinas AP

Coastal Zone: No

Permit Type: Use Permit

Zoning: F/40

Environmental Status: Exempt per 15306

Plan Designation: Farmland

Advisory Committee: South County LUAC

Final Action Deadline (884): 6/29/2011

#### Project Site Data:

Lot Size: 553 Acres

Coverage Allowed: 5%

Coverage Proposed: .000009%

Existing Structures (SF): 2,316 Sq Ft

Height Allowed: 200 Feet

Proposed Structures (SF): 16 Sq Ft

Height Proposed: 198 Feet

Total SF: 2,332 Sq Ft

Floor Area Ratio Allowed: N/A

Floor Area Ratio Proposed: N/A

#### Resource Zones and Reports:

Environmentally Sensitive Habitat: N/A

Erosion Hazard Zone: High

Biological Report #: N/A

Soils Report #: N/A

Forest Management Rpt. #: N/A

Archaeological Sensitivity Zone: Low

Geologic Hazard Zone: Undetermined

Archaeological Report #: N/A

Geologic Report #: N/A

Fire Hazard Zone: Agricultural

Historic Report #: N/A

#### Other Information:

Water Source: N/A

Sewage Disposal (method): N/A

Water Dist/Co: N/A

Sewer District Name: N/A

Fire District: South County FPD

Total Grading (cubic yds.): 1 cubic yard

Tree Removal: N/A

## EXHIBIT A-3

### Project Data Sheet for PLN100609

Project Title: SALINAS LAND CO.

Location: Southeast of the intersection of  
Highway 101, Central Avenue, and  
Thompson Canyon Road, Soledad

Primary APN: 221-102-013-000

Applicable Plan: Central Salinas AP

Coastal Zone: No

Permit Type: Use Permit

Zoning: F/40

Environmental Status: Exempt per 15306

Plan Designation: Farmland

Advisory Committee: South County LUAC

Final Action Deadline (884): 6/29/2011

#### Project Site Data:

Lot Size: 275 Acres

Coverage Allowed: 5%

Coverage Proposed: .100000%

Existing Structures (SF): N/A

Height Allowed: 200 Feet

Proposed Structures (SF): 16 Sq Ft

Height Proposed: 198 Feet

Total SF: 16 Sq Ft

Floor Area Ratio Allowed: N/A

Floor Area Ratio Proposed: N/A

#### Resource Zones and Reports:

Environmentally Sensitive Habitat: N/A

Erosion Hazard Zone: High

Biological Report #: N/A

Soils Report #: N/A

Forest Management Rpt. #: N/A

Archaeological Sensitivity Zone: Low

Geologic Hazard Zone: Undetermined

Archaeological Report #: N/A

Geologic Report #: N/A

Fire Hazard Zone: Agricultural

Historic Report #: N/A

#### Other Information:

Water Source: N/A

Sewage Disposal (method): N/A

Water Dist/Co: N/A

Sewer District Name: N/A

Fire District: South County FPD

Total Grading (cubic yds.): 1 cubic yard

Tree Removal: N/A

## **EXHIBIT B DISCUSSION**

### **Project Overview**

The use of wind energy conversion systems is not common in the County of Monterey due to potential environmental issues. However, a few applications have been applied for, as the area may have a viable wind source for such a system. Recent activity shows that applications for meteorological (MET) towers are far more common. MET towers, placed in different areas of the County, specifically the Central Salinas Valley floor, allow for data collection to determine viable areas where wind conversion systems could be placed.

The three entitlements (PLN100603, PLN100607, and PLN100609) request the erection of a 198-foot MET tower on three separate parcels for a period no longer than two years.

The three subject properties are located in agricultural areas that are currently being farmed and two (PLN100607 and PLN100609) are currently under Williamson Act Contract. However, the exact locations for the towers are in areas which are not currently in agricultural production. The projects were brought before the Agricultural Advisory Committee on April 28, 2011 for review. Staff requested comments/recommendations relative to the proposed use and consistency with the area and Williamson Act Contracts. The proposed use was found to be consistent; however, the Committee gave recommendations regarding safety for low flying aircraft (see paragraphs below).

### **Potential Issues**

During review of the proposed projects; health, life, and safety were identified; and the parcels for PLN100603 (Assessor's Parcel Numbers 183-021-035-000 and 183-021-036-000) and PLN100607 (Assessor's Parcel Number 221-072-005-000), contain floodplain issues. Potential safety issues as a result of the erection of a 198-foot MET tower in an area where there are ongoing agricultural activities have been identified. Low flying aircraft, such as aerial pesticide applicators, have the potential to fly into the tower or guy wires due to low visibility. Therefore, the project has been conditioned with a non-standards condition to require striping in seven, equal, alternating bands of aviation orange and white; the installation of a warning light at the top of the tower; maintaining of the entire footprint area and six-feet past the outer anchors free of vegetation; installing marker balls to the guy wires; and installing seven foot safety sleeves on the guy wires at each anchor point. Pursuant to the California Agricultural Aircraft Association, incorporation of this condition will significantly lower the safety hazard.

Review by the Water Resources Agency revealed that the proposed tower locations for PLN100603 and PLN100607 are located partially within the Salinas Valley River floodplain. Therefore, standard conditions of approval have been incorporated to ensure the project will be safe to the surrounding areas. The projects have been conditioned to require recordation of a Floodplain Notice prior to the issuance of building permits. PLN100603 have two additional standard conditions requiring submittal of an engineered anchoring plan for the tower prior to the issuance of building permits and submittal of an engineer's certification of the anchoring system prior to final of building permits.

All potential issues have been resolved through the incorporation of both standard and non-standard conditions of approval and no other project issues remain.

### **Recommendation**

MET Data Collection Towers (PLN100603, PLN100607, and PLN100609)

The projects, as proposed and conditioned, were found to be consistent with the Monterey County 2010 General Plan (specifically Agricultural Polices AG-1.8, AG-2.1, and AG-2.4 Central Salinas Valley Area), the Central Salinas Valley Area Plan, and Title 21 (Section 21.30.050 for the Farmland Zoning District and Section 21.64.120 for Wind Energy Conversion Systems).

The projects were found to be exempt from environmental review pursuant to Section 15306 of the California Environmental Quality Act (CEQA) Guidelines which exempts data collection activities that do not result in a serious or major disturbance to an environmental resource and are strictly for information gathering purposes.

The projects, as proposed and conditioned, are found to be consistent with the County's zoning regulations, and therefore, staff recommends approval of the project based on the Findings and Evidence and conditions of approval contained within **Exhibits C, D, and E**.



**EXHIBIT C  
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**Ventana Property Holdings LLC &  
The Roy C. Gianolini and Virginia B.  
Gianolini 2000 Family Trust  
(PLN100603)**

**RESOLUTION NO. [REDACTED]**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Categorically exempting the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- 2) Approving a Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years.

[PLN100603, Ventana Property Holdings LLC &  
The Roy C. Gianolini and Virginia B. Gianolini 2000  
Family Trust, 38740 Los Coches Road, Central  
Salinas Area Plan (APN: 183-021-035-000 and 183-  
021-036-000)]

**The Ventana Property Holdings LLC & The Roy C. Gianolini and Virginia B. Gianolini 2000 Family Trust application (PLN100603) came on for public hearing before the Monterey County Zoning Administrator on July 28, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the July 28, 2011 finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 2010 Monterey County General Plan;
  - Central Salinas Valley Area Plan; and
  - Monterey County Zoning Ordinance (Title 21);No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.  
b) The property is located at 38740 Los Coches Road (Assessor's Parcel Number 183-021-035-000 and 183-021-036-000), Central Salinas Area Plan. The parcel is zoned Farmland, 40 acres per unit or "F/40", which

allows uses of similar character, density, and intensity to commercial or non-commercial wind energy conversion systems. The proposed temporary Meteorological (MET) Data Collection Tower will be similar but shorter and less invasive than a wind turbine. Therefore, the project is an allowed land use for this site.

- c) The project is consistent with the applicable regulations of Section 21.64.120 of Title 21 for Wind Energy Conversion Systems. Although the project is not a wind energy conversion system and it is shorter and less invasive than a wind energy conversion system, it is similar to the size and purpose, as it will collect wind data in the area.

Setbacks – The project meets the setback requirements set forth in Section 21.64.120.C.2 of Title 21. (See table below.)

| Required Setback  | Proposed Setback                                      |
|---|---|
| 2 times the total height from any property line (396 feet)            | Front: 3,627 feet<br>Side: 679 feet<br>Rear: 425 feet |
| 5 times the total height from any road right-of-way (975 feet)        | 3,627 feet  |
| 1.25 times the total height from any habitable structure (247.5 feet) | N/A   |

Siting and Design – Section 21.64.120.C.4 of Title 21 lists siting and design standards requiring: that wind conversion systems not be placed on a visually prominent ridgeline; be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas; consist of colors, to the greatest extent feasible, that minimize disruption of the natural characteristics of the site; and contain air traffic warning lights if the tower exceeds 175 feet in height. The tower is located towards the northwest corner of the subject property and screened from Highway 101 by existing vegetation which will not result in ridgeline development. The California Agricultural Aircraft Association (see subsequent Evidence g) recommends that the tower be painted in seven, equal, alternating bands of aviation orange and white. Although the colors used for the tower and the warning light will not allow the structure to blend into the environment, it is designed to meet the requirement to the greatest extent feasible as safety precautions for health, life, and safety outweigh the regulations of this section. Furthermore, based on Figure 13 of the Central Salinas Valley Area Plan, the subject property is: not a scenic vista, visible from a scenic vista, visible from a state scenic highway, and there are not scenic resources onsite. The MET tower does not include large rotary blades; therefore, noise levels will not be increased as a result of the project.

Abatement – A non-standard condition (Condition No. 7) have been incorporated to require the applicant to submit a bond (in the amount of a cost estimate submitted by the applicant) for removal of the tower should it be abandoned. If the applicant fails to remove the tower, the County shall access the bond to contract for the removal.

- d) The project planner conducted a site inspection on April 8, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Pursuant to General Plan Policy No. AG-2.1, Agricultural support facilities (research facilities) shall be considered compatible and appropriate uses. The purpose of the proposed project is for research and the collection of wind data in the Salinas Valley. Therefore, the project is considered a compatible use.
- f) Pursuant to General Plan Policy No. AG- 2.4, agricultural support uses shall be sited and designed to minimize the loss of productive agricultural lands and to minimize impacts on surrounding uses. Installation of the temporary MET tower will be located in an area that is currently void of vegetation and is not proposed for planting in the future. The surrounding uses in the area are viticulture and the proposed use is found to be compatible.
- g) Pursuant to General Plan Policy No. AG-1.8, the proposed project was referred to and heard by the Agricultural Advisory Committee on April 28, 2011 to review the project's compatibility with Farmland zoning. No project issues were identified; however, the Advisory Committee recommended a condition of approval requiring the installation of warning/safety measures for low flying aircraft. The non-standard condition of approval (Condition No. 6) has been incorporated in the project. (Also see Finding No. 3, Evidence c.)
- h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100603.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, Mission Soledad Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the Water Resources Agency and the RMA-Planning Department have been incorporated.
  - b) Staff identified potential impacts to Biological Resources within the Salinas River riparian corridor. Therefore, verification by the applicant was required for submittal. The letter prepared by project biologist Karina Fidler, AICP, indicates that the proposed tower is not located within or adjacent to any riparian vegetation associated with the Salinas River corridor.
  - c) Staff conducted a site inspection on April 8, 2011 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100603.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the Mission Soledad Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Although the proposed area of development is not located within the Salinas River riparian corridor (see Finding No. 5, Evidence c), review by the Water Resources Agency revealed that it is located partially within the floodplain. Therefore, standard conditions of approval have been incorporated to ensure the project will be safe to the surrounding areas. The conditions of approval include: the recordation of a Floodplain Notice prior to the issuance of building permit, submittal of an engineered anchoring plan for the tower prior to the issuance of building permits, and submittal of an engineer's certification of the anchoring system prior to final of building permits.
  - c) Potential safety issues as a result of the erection of a 198-foot MET tower in an area where there are ongoing agricultural activities have been identified. Low flying aircraft, such as aerial pesticide applicators, have the potential to fly into the tower or guy wires due to low visibility. Therefore, the project has been conditioned with a non-standard condition (Condition No. 6) to require striping in seven, equal, alternating bands of aviation orange and white; the installation of a warning light at the top of the tower; maintaining of the entire footprint area and six-feet past the outer anchors free of vegetation; installing marker balls to the guy wires; and installing seven foot safety sleeves on the guy wires at each anchor point. Pursuant to the California Agricultural Aircraft Association, incorporation of this condition will significantly lower the safety hazard.
  - d) There are no necessary public facilities required for the project. Electricity for the data collection and to run the safety light mechanism will be provided by a small solar panel on the tower.
  - e) Preceding Finding Nos. 1, 2 and subsequent Finding No. 5 and supporting evidence for PLN100603.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.

- b) Staff conducted a site inspection on April 8, 2011 and researched County records to assess if any violation exists on the subject property.
- c) There are no known violations on the subject parcel.
- d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100603.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15306, categorically exempts data collection activities which do not result in a serious or major disturbance to an environmental resource which are strictly for information gathering purposes.
  - b) The proposed meteorological tower will be erected for no longer than two years. The purpose of the tower will be to collect wind data from the Salinas Valley. This meets the uses listed in the aforementioned CEQA Section 15306.
  - c) Aerial photographs of the site and a staff site visit identified a potential for development within an environmentally sensitive habitat area, the Salinas river riparian corridor. Therefore, staff required the applicant to submit documentation from a biologist. The biologist submitted a letter dated June 14, 2011 by Karina Fidler, AICP, Project Biologist (see Finding No. 2, Evidence b). The biologist concluded that the "proposed MET tower site is approximately 250 feet south of the Salinas River embankment in a denuded area void of vegetation" and that the "tower is not proposed to be nor would it be located within or adjacent to any riparian vegetation associated with the Salinas River corridor." Therefore, the project will have no impact to biological resources.
  - d) No adverse environmental effects were identified during staff review of the development application during a site visit on April 8, 2011.
  - e) Section 15300.2 of the CEQA Guidelines list exceptions to the exemptions, were projects normally found to be exempt from CEQA may require an environmental review. These exceptions include: project location, cumulative impact, significant effect, scenic highways, hazardous waste sites, or historical resources. The subject property is not located within an officially designated state scenic highway, it is not listed on the Cortese List (for hazardous materials sites) from the Department of Toxic Substances Control (DTSC), nor are there any historic resources located on the site. No environmental resource of hazardous or critical concern was found on the property and no unusual circumstance exists where the project will have a significant effect on the environment. Construction impacts will be short and temporary; however, the project as proposed and conditioned will not create a significant impact on the environment and cumulative impacts were not identified.
  - f) See preceding and following findings and supporting evidence.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.

**EVIDENCE:** Section 21.80.040.B Monterey County Zoning Ordinance (Planning Commission).

**DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically exempts the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- B. Approves the Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 28<sup>th</sup> day of July, 2011 by:

\_\_\_\_\_  
Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

**NOTES**

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

# Monterey County Planning Department

## DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan

PLN100603

Responsible Department  
Compliance or Monitoring Actions to be Performed

**Conditions of Approval and/or Mitigation Monitoring Measures**

**1. PD001 - SPECIFIC USES ONLY**

This Use Permit, allowing the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.  
(RMA - Planning Department)

Planning

The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

**2. PD002 - NOTICE PERMIT APPROVAL**

The applicant shall record a notice which states: "A Permit (Resolution \_\_\_\_\_) was approved by the Zoning Administrator for Assessor's parcel numbers 183-021-035-000 and 183-021-036-000 on July 28, 2011. The permit was granted subject to 10 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."  
Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.  
(RMA - Planning Department)

Planning

Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.

**3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT**

Conditions of Approval and/or Mitigation Monitoring Measures

If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD004 - INDEMNIFICATION AGREEMENT

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

5. PDSP001 - PERMIT EXPIRATION (NON-STANDARD)

The permit shall be granted for a time period of 2 years after final of building permit(s) for the MET tower. Use of the MET tower shall not exceed 2 years. After termination of the use, the applicant shall return the site to its natural state. (RMA - Planning Department)

Two years after final of building permit(s) for the MET tower, the applicant shall discontinue the use and remove the structure from the site. The area disturbed by development shall be returned to its natural state. The applicant shall notify the RMA-Planning Department once this is complete. Any non-compliance with this condition will result in a violation pursuant to Section 21.84.050 of Title 21.



**6. PDSP002 - SAFETY MECHANISMS (NON-STANDARD)**

The applicant shall submit construction plans for the MET tower which include the following safety standards.

1. Towers must be painted in seven, equal, alternating bands of aviation orange and white. Beginning with orange at the top of the tower, and ending with orange at the base.
2. Owners must have a flashing red light at the top of the tower with a minimum of 3.75km visibility when flashing.
3. The surface area under the entire footprint of the tower and 6' past the outer anchors must be free of vegetation, or planted in vegetation that is distinctly different from the vegetation surrounding the tower
4. Guy wires must have a total of eight marker balls attached as follows: 4 marker balls attached to guide wires at the top of the tower at a distance no further down than 15 feet from the top
5. Guy wires must have a 7" safety sleeve at each anchor point.

These safety standards shall be in place and operating during the time that the MET tower is operational and shall cease upon removal of the tower. (RMA - Planning Department)

**7. PDSP003 - ABATEMENT (NON-STANDARD)**

The applicant, or successors, shall continuously maintain a fund payable to the County of Monterey for the removal of non-functional towers and appurtenant facilities in an amount to be determined by a cost estimate submitted by the applicant for the period of the Use Permit. This fund may consist of a certificate of deposit in a State of California financial institution (as approved under Government Code Section 66499). Interest on said certificate of deposit shall be paid to the applicant, or its successors, but the terms of the certificate shall require that it remain on deposit during the period of the Use Permit. (RMA - Planning Department)

Prior to issuance of building permits, the applicant shall submit construction plans incorporating the safety measures listed within the condition for review and approval by the RMA-Planning Department.

The safety mechanisms shall be in place and operational during the time that the MET tower is in use.

Planning

Planning

Prior to the issuance of building permits, the applicant shall submit a cost estimate and a bond in that amount, for removal of the tower and appurtenant facilities.

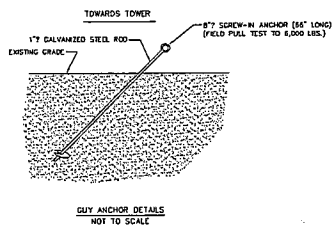
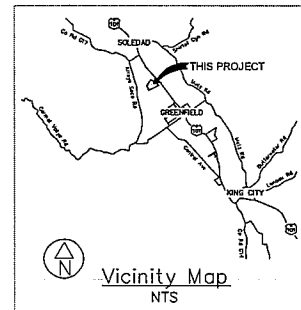
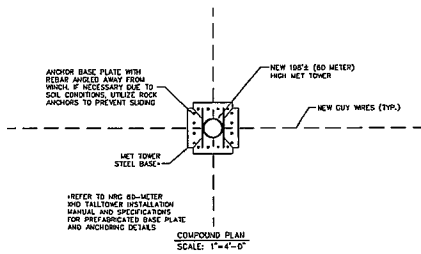
If removal of towers and appurtenant facilities is required and the applicant, permit holder, or successors fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Director of Planning, the Director of Planning may contract for such removal and pay for removal from the fund.

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal. By the acceptance of a Use Permit, the permittee or grantor grants a license to the County of Monterey to enter the property to remove a tower pursuant to the terms of the Use Permit and to assure compliance with the other conditions set forth in the permit.

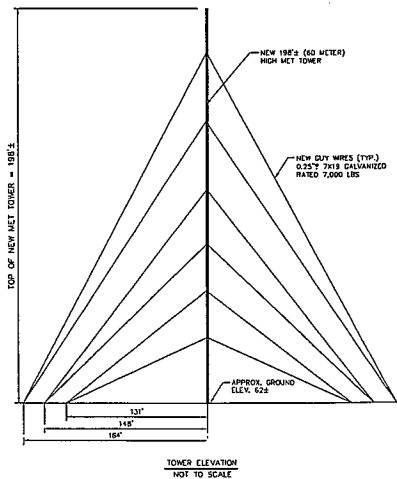
| Conditions of Approval and/or Mitigation Monitoring Measures   | Responsible Department | Compliance or Monitoring Actions to be Performed   |
|--|------------------------|--|
| <p><b>8. WRSP1 - ANCHORING PLAN</b><br/>The applicant shall submit an anchoring plan, with supporting calculations prepared by a registered civil engineer. In accordance with Monterey County Code Chapter 16.16, the tower shall be designed to resist flotation, collapse, and lateral movement. (Water Resources Agency)</p> | Water                  | Prior to issuance of any construction permit(s), the owner/applicant shall submit an anchoring plan and supporting calculations to the Water Resources Agency for review and approval.   |
| <p><b>9. WRSP2 - ANCHORING CERTIFICATION</b><br/>The applicant shall provide certification from a registered civil engineer that the tower was constructed in accordance with the approved anchoring plan. (Water Resources Agency)</p>  | Water                  | Prior to final inspection, the owner/applicant shall submit a letter, prepared by a registered civil engineer, to the Water Resources Agency for review and approval.  |
| <p><b>10. WR22 - FLOODPLAIN RECORDATION</b><br/>The owner shall provide the Water Resources Agency a recorded Floodplain Notice stating: "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." (Water Resources Agency)</p>                             | Water                  | Prior to issuance of any grading or building permits, the owner/applicant shall submit a recorded floodplain notice to the Water Resources Agency for review and approval. (A copy of the County's standard notice can be obtained at the Water Resources Agency.) |

# Exhibit C-2

K:\SND\_ENV\191579004 - NexEra Monterey Tower\Ventana\design\Ventana Site\Ventana Site.dwg Jan 25, 2011 steve.bindel  
 XREFS: boundary VicMap g's-511-kha-NADB3  
 THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KIMLEY-HORN AND ASSOCIATES, INC. SHALL BE WITHOUT LIABILITY TO KIMLEY-HORN AND ASSOCIATES, INC.



NOTE: THE MINIMUM DESIGN LOADS FOR THE TOWER PER IBC CHAPTER 16 CODE AND TIA/EIA REV. F CODES ARE AS FOLLOWS:  
 MINIMUM DESIGN WIND SPEED = 105 MPH (3 SECOND GUST WIND) OR 90 MPH (FASTEST WIND) WITH 0\"/>



| PROJECT DATA SUMMARY TABLE         |                           |
|------------------------------------|---------------------------|
| LOT SIZE                           | 359 AC<br>14 AC<br>373 AC |
| GENERAL PLAN LAND USE              | AGRICULTURAL              |
| ZONING DESIGNATION                 | F40                       |
| REQUIRED AND PROPOSED LOT COVERAGE | N/A                       |
| GRADING CUT/FILL                   | N/A                       |
| TREE REMOVAL                       | NONE                      |
| REQUIRED AND PROPOSED PAVING       | NONE                      |

TOWER LOCATION  
 LAT: 36°22'8.300\"/>

PROJECT NO.  
 191579004  
 DRAWING NAME  
 Ventana Site.dwg  
 1 OF 2

TOWER ASSOCIATES  
 MONTEREY COUNTY, CA.  
 VENTANA SITE

SCALE (H): 1\"/>

**Kimley-Horn and Associates, Inc.**  
 © 2010 KIMLEY-HORN AND ASSOCIATES, INC.  
 7878 North 16th Street, Suite 300  
 Phoenix, Arizona 85020 (602) 944-5500

LANDOWNER  
 VENTANA LAND CO.  
 APN 183-021-035  
 APN 183-021-036

| NO. | REVISION | DATE |
|-----|----------|------|
|     |          |      |

**EXHIBIT D  
DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**Smith-Monterey, LLC**

**(PLN100607)**

**RESOLUTION NO. [REDACTED]**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Categorically exempting the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- 2) Approving a Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years.

[PLN100607, The Smith-Monterey, LLC, 43701 State Hwy 101, Greenfield (Assessor's Parcel Number 221-072-005-000)]

**The Smith-Monterey, LLC application (PLN100607) came on for public hearing before the Monterey County Zoning Administrator on July 28, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the July 28, 2011 finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the 2010 Monterey County General Plan;
  - Central Salinas Valley Area Plan; and the
  - Monterey County Zoning Ordinance (Title 21);No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- b) The property is located at 43701 State Hwy 101, Greenfield (Assessor's Parcel Number 221-072-005-000), Central Salinas Area Plan. The parcel is zoned Farmland, 40 acres per unit or "F/40", which allows uses of similar character, density, and intensity to commercial or non-commercial wind energy conversion systems. The proposed temporary Meteorological (MET) Data Collection Tower will be similar but shorter and less invasive than a wind turbine. Therefore, the project is an allowed land use for this site.
- c) The project is consistent with the applicable regulations of Section

21.64.120 of Title 21 for Wind Energy Conversion Systems. Although the project is not a wind energy conversion system and it is shorter and less invasive than a wind energy conversion system, it is similar to the size and purpose, as it will collect wind data in the area.

Setbacks – The project meets the setback requirements set forth in Section 21.64.120.C.2 of Title 21. (See table below.)

| Required Setback  | Proposed Setback  |
|---|---|
| 2 times the total height from any property line (396 feet)            | Front: 1,239 feet<br>Side: 2,430 feet<br>Rear: 2,337 feet |
| 5 times the total height from any road right-of-way (975 feet)        | 1,239 feet  |
| 1.25 times the total height from any habitable structure (247.5 feet) | 250+ feet<br>210 feet from non-habitable                  |

Siting and Design – Section 21.64.120.C.4 of Title 21 lists siting and design standards requiring: that wind conversion systems not be placed on a visually prominent ridgeline; be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas; consist of colors, to the greatest extent feasible, that minimize disruption of the natural characteristics of the site; and contain air traffic warning lights if the tower exceeds 175 feet in height. The tower is located towards the northwest corner of the subject property and screened from Highway 101 by existing vegetation which will not result in ridgeline development. The California Agricultural Aircraft Association (see subsequent Evidence g) recommends that the tower be painted in seven, equal, alternating bands of aviation orange and white. Although the colors used for the tower and the warning light will not allow the structure to blend into the environment, it is designed to meet the requirement to the greatest extent feasible as safety precautions for health, life, and safety outweigh the regulations of this section. Furthermore, based on Figure 13 of the Central Salinas Valley Area Plan, the subject property is: not a scenic vista, visible from a scenic vista, visible from a state scenic highway, and there are not scenic resources onsite. The MET tower does not include large rotary blades; therefore, noise levels will not be increased as a result of the project.

Abatement – A non-standard condition (Condition No. 7) have been incorporated to require the applicant to submit a bond (in the amount of a cost estimate submitted by the applicant) for removal of the tower should it be abandoned. If the applicant fails to remove the tower, the County shall access the bond to contract for the removal.

- d) The project planner conducted a site inspection on April 8, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Pursuant to General Plan Policy No. AG-2.1, Agricultural support facilities (research facilities) shall be considered compatible and appropriate uses. The purpose of the proposed project is for research and the collection of wind data in the Salinas Valley. Therefore, the

- project is considered a compatible use.
- f) Pursuant to General Plan Policy No. AG- 2.4, agricultural support uses shall be sited and designed to minimize the loss of productive agricultural lands and to minimize impacts on surrounding uses. Installation of the temporary MET tower will be located in an area that is currently void of vegetation and is not proposed for planting in the future. The surrounding uses in the area are viticulture and the proposed use is found to be compatible.
  - g) Pursuant to General Plan Policy No. AG-1.8, the proposed project was referred to and heard by the Agricultural Advisory Committee on April 28, 2011 to review the project's compatibility with Farmland zoning. No project issues were identified; however, the Advisory Committee recommended a condition of approval requiring the installation of warning/safety measures for low flying aircraft. The non-standard condition of approval (Condition No. 6) has been incorporated in the project. (Also see Finding No. 3, Evidence c.)
  - h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100607.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, South County Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the Water Resources Agency and RMA-Planning Department have been incorporated.
  - b) Based on staff's review of the proposed project and resource material (Central Salinas Valley Area Plan and the Monterey County Geographic Information System) no potential impacts caused by the project were identified. In addition the proposed project is found to be exempt for an environmental review (See Finding No. 5). Therefore, no reports were required to be submitted as part of the lot line adjustment application.
  - c) Staff conducted a site inspection on April 8, 2011 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100607.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:** a) The project was reviewed by the South County Fire Protection District,

Public Works, Environmental Health Bureau, and Water Resources Agency. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.

- b) There are no necessary public facilities required for the project. Electricity for the data collection and to run the safety light mechanism will be provided by a small solar panel on the tower.
- c) Potential safety issues as a result of the erection of a 198-foot MET tower in an area where there are ongoing agricultural activities have been identified. Low flying aircraft, such as aerial pesticide applicators, have the potential to fly into the tower or guy wires due to low visibility. Therefore, the project has been conditioned with a non-standard condition (Condition No. 6) to require striping in seven, equal, alternating bands of aviation orange and white; the installation of a warning light at the top of the tower; maintaining of the entire footprint area and six-feet past the outer anchors free of vegetation; installing marker balls to the guy wires; and installing seven foot safety sleeves on the guy wires at each anchor point. Pursuant to the California Agricultural Aircraft Association, incorporation of this condition will significantly lower the safety hazard.
- d) Based on review by the Water Resources Agency, the parcel is identified to be located partially within the floodplain. Therefore, a standard condition of approval has been incorporated requiring recordation of a Floodplain Notice prior to the issuance of building permit for notification of any future owners.
- e) Preceding Finding Nos. 1, 2 and subsequent Finding No. 5 and supporting evidence for PLN100607.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on April 8, 2011 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100607.

5. **FINDING:** **CEQA (Exempt)** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15306, categorically exempts data collection activities which do not result in a serious or major disturbance to an environmental resource which are strictly for information gather purposes.
  - b) The proposed meteorological tower will be erected for no longer than

two years. The purpose of the tower will be to gather wind data from the Salinas Valley. This meets the uses listed in the aforementioned CEQA Section 15306.

- c) No adverse environmental effects were identified during staff review of the development application during a site visit on April 8, 2011.
- d) The subject property is partially within the Salinas River floodplain. Therefore, Water Resources staff has conditioned the project requiring recordation of a Floodplain Notice prior to the issuance of building permit for notification of any future owners.
- e) Section 15300.2 of the CEQA Guidelines list exceptions to the exemptions, were projects normally found to be exempt from CEQA may require an environmental review. These exceptions include: project location, cumulative impact, significant effect, scenic highways, hazardous waste sites, or historical resources. The subject property is not located within an officially designated state scenic highway, it is not listed on the Cortese List (for hazardous materials sites) from the Department of Toxic Substances Control (DTSC), nor are there any historic resources located on the site. No environmental resource of hazardous or critical concern was found on the property and no unusual circumstance exists where the project will have a significant effect on the environment. Construction impacts will be temporary; however, the project as proposed and conditioned will not create a significant impact on the environment and cumulative impacts were not identified.
- f) See preceding and following findings and supporting evidence.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.
- EVIDENCE:** Section 21.80.040.B Monterey County Zoning Ordinance (Planning Commission).

### DECISION

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically exempts the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- B. Approves the Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 28<sup>th</sup> day of July, 2011 by:

\_\_\_\_\_  
Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

Smith-Monterey, LLC (PLN100607)



THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 03-28-2011

**Monterey County Planning Department**  
**DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan**

PLN100607

Compliance or Monitoring  
 Actions to be Performed

Responsible  
 Department

Conditions of Approval and/or Mitigation Monitoring Measures

|   |                 |  |
|---|-----------------|--|
| <p><b>1. PD001 - SPECIFIC USES ONLY</b><br/>                 This Use Permit, allowing the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.<br/>                 (RMA - Planning Department)</p> | <p>Planning</p> | <p>The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.</p>  |
| <p><b>2. PD002 - NOTICE PERMIT APPROVAL</b><br/>                 The applicant shall record a notice which states: "A Permit (Resolution _____) was approved by the Zoning Administrator for Assessor's parcel number 221-072-005-000 on July 28, 2011. The permit was granted subject to 8 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."<br/>                 Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.<br/>                 (RMA - Planning Department)</p>  | <p>Planning</p> | <p>Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.</p> |

**3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT**

If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

**4. PD004 - INDEMNIFICATION AGREEMENT**

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

**5. PDSP001 - PERMIT EXPIRATION (NON-STANDARD)**

The permit shall be granted for a time period of 2 years after final of building permit(s) for the MET tower. Use of the MET tower shall not exceed 2 years. After termination of the use, the applicant shall return the site to its natural state. (RMA - Planning Department)

Planning

Two years after final of building permit(s) for the MET tower, the applicant shall discontinue the use and remove the structure from the site. The area disturbed by development shall be returned to its natural state. The applicant shall notify the RMA-Planning Department once this is complete. Any non-compliance with this condition will result in a violation pursuant to Section 21.84.050 of Title 21.

**6. PDSP002 - SAFETY MECHANISMS (NON-STANDARD)**

The applicant shall submit construction plans for the MET tower which include the following safety standards.

1. Towers must be painted in seven, equal, alternating bands of aviation orange and white. Beginning with orange at the top of the tower, and ending with orange at the base.
2. Owners must have a flashing red light at the top of the tower with a minimum of 3.75km visibility when flashing.
3. The surface area under the entire footprint of the tower and 6' past the outer anchors must be free of vegetation, or planted in vegetation that is distinctly different from the vegetation surrounding the tower
4. Guy wires must have a total of eight marker balls attached as follows: 4 marker balls attached to guide wires at the top of the tower at a distance no further down than 15 feet from the top
5. Guy wires must have a 7' safety sleeve at each anchor point.

These safety standards shall be in place and operating during the time that the MET tower is operational and shall cease upon removal of the tower. (RMA - Planning Department)

**7. PDSP003 - ABATEMENT (NON-STANDARD)**

The applicant, or successors, shall continuously maintain a fund payable to the County of Monterey for the removal of non-functional towers and appurtenant facilities in an amount to be determined by a cost estimate submitted by the applicant for the period of the Use Permit. This fund may consist of a certificate of deposit in a State of California financial institution (as approved under Government Code Section 66499). Interest on said certificate of deposit shall be paid to the applicant, or its successors, but the terms of the certificate shall require that it remain on deposit during the period of the Use Permit. (RMA - Planning Department)

Prior to issuance of building permits, the applicant shall submit construction plans incorporating the safety measures listed within the condition for review and approval by the RMA-Planning Department.

The safety mechanisms shall be in place and operational during the time that the MET tower is in use.

Planning

Planning

Prior to the issuance of building permits, the applicant shall submit a cost estimate and a bond in that amount, for removal of the tower and appurtenant facilities.

If removal of towers and appurtenant facilities is required and the applicant, permit holder, or successors fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Director of Planning, the Director of Planning may contract for such removal and pay for removal from the fund.

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal. By the acceptance of a Use Permit, the permittee or grantor grants a license to the County of Monterey to enter the property to remove a tower pursuant to the terms of the Use Permit and to assure compliance with the other conditions set forth in the permit.

Compliance or Monitoring  
Actions to be Performed

Responsible  
Department

Conditions of Approval and/or Mitigation Monitoring Measures

**8. WR22 - FLOODPLAIN RECORDATION**

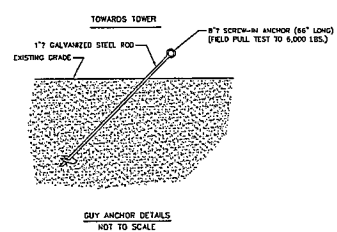
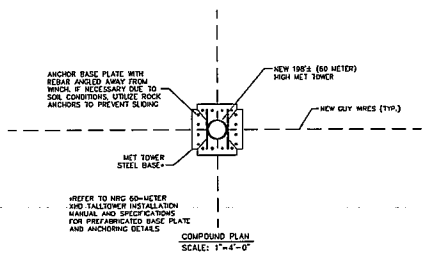
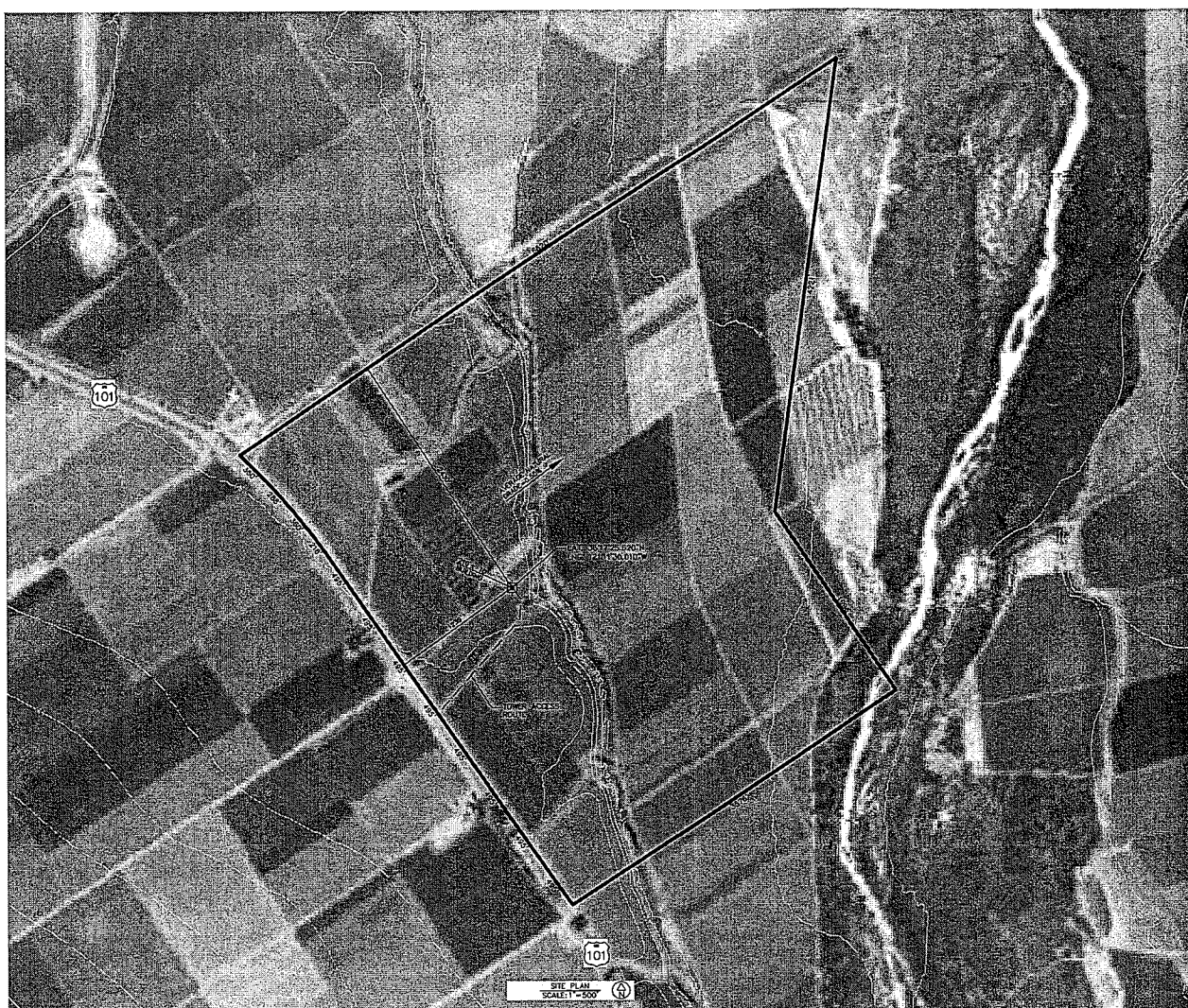
The owner shall provide the Water Resources Agency a recorded Floodplain Notice stating: "The property is located within or partially within a floodplain and may be subject to building and/or land use restrictions." (Water Resources Agency)

Water

Prior to issuance of any grading or building permits, submit a recorded floodplain notice to the Water Resources Agency for review and approval. (A copy of the County's standard notice can be obtained at the Water Resources Agency.)

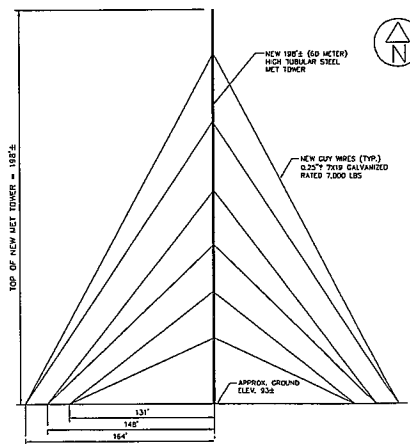
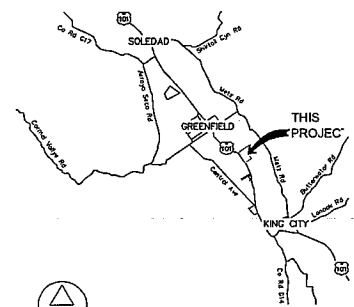
# EXHIBIT D-2

K:\SND\_ENV\191579004 - NextEra Monterey Tower\Salinas Land Company\design\site 3 - Hacienda Yard\Site 3-HY.dwg Jun 25, 2011 steve.bindel  
 XREFS: boundary VicMap gis-511-sho-NAD83  
 THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGNS PRESENTED HEREIN, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE  
 OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KIMLEY-HORN AND ASSOCIATES, INC. SHALL BE WITHOUT LIABILITY TO KIMLEY-HORN AND ASSOCIATES, INC.



NOTE: THE MINIMUM DESIGN LOADS FOR THE TOWER PER IBC CHAPTER 16 CODE AND 11A/EIA REV. F CODES ARE AS FOLLOWS:  
 MINIMUM DESIGN WIND SPEED = 105 MPH (3 SECOND GUST WIND) OR 90 MPH (FASTEST MILE WIND) WITH 0" ICE  
 MINIMUM DESIGN WIND SPEED = 80 MPH (3 SECOND GUST WIND) OR 70 MPH (FASTEST MILE WIND) WITH 0.25" ICE

DESIGN WIND SPEED NOTES



| PROJECT DATA SUMMARY TABLE         |                          |
|------------------------------------|--------------------------|
| LOT SIZE                           | 352.76 AC                |
| GENERAL PLAN LAND USE              | AGRICULTURAL PRESERVE 44 |
| ZONING DESIGNATION                 | F40                      |
| REQUIRED AND PROPOSED LOT COVERAGE | N/A                      |
| GRADING CUT/FILL                   | N/A                      |
| TREE REMOVAL                       | NONE                     |
| REQUIRED AND PROPOSED PARKING      | NONE                     |

TOWER LOCATION  
 LAT 36.7724207°N  
 LONG 121.1326007°W

PROJECT NO.  
191579004  
 DRAWING NAME  
Site 3-HY.dwg  
 1 OF 2

TOWER ASSOCIATES  
 MONTEREY COUNTY, CA.  
 SITE 3 - HACIENDA YARD

SCALE (H): 1"=40'  
 SCALE (V): NONE  
 DESIGNED BY:  
 DRAWN BY:  
 CHECKED BY:  
 DATE:

**Kimley-Horn and Associates, Inc.**  
 2010 KIMLEY-HORN AND ASSOCIATES, INC.  
 7876 North 16th Street, Suite 300  
 Phoenix, Arizona 85020 (602) 944-5500

| NO. | REVISION | DATE |
|-----|----------|------|
|     |          |      |
|     |          |      |
|     |          |      |
|     |          |      |

LANDOWNER  
 SALINAS LAND CO.  
 APN 221-072-005

**EXHIBIT E**  
**DRAFT RESOLUTION**

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**Salinas Land Co.**

**(PLN100609)**

**RESOLUTION NO. [REDACTED]**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Categorically exempting the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- 2) Approving a Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years.

[PLN100609, Salinas Land Co., southeast of the intersection of Highway 101, Central Avenue, and Thompson Canyon Road, Soledad (Assessor's Parcel Number 221-102-013-000)]

**The Salinas Land Co. application (PLN100609) came on for public hearing before the Monterey County Zoning Administrator on July 28, 2011. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the July 28, 2011 finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 2010 Monterey County General Plan;
- Central Salinas Valley Area Plan; and the
- Monterey County Zoning Ordinance (Title 21);

No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.

- b) The property is located at southeast of the intersection of Highway 101, Central Avenue, and Thompson Canyon Road, Soledad (Assessor's Parcel Number 221-102-013-000), Central Salinas Area Plan. The parcel is zoned Farmland, 40 acres per unit or "F/40", which allows uses of similar character, density, and intensity to commercial or non-commercial wind energy conversion systems. The proposed temporary Meteorological (MET) Data Collection Tower will be similar but shorter and less invasive than a wind turbine. Therefore, the project is

an allowed land use for this site.

- c) The project is consistent with the applicable regulations of Section 21.64.120 of Title 21 for Wind Energy Conversion Systems. Although the project is not a wind energy conversion system and it is shorter and less invasive than a wind energy conversion system, it is similar to the size and purpose, as it will collect wind data in the area.

Setbacks – The project meets the setback requirements set forth in Section 21.64.120.C.2 of Title 21. (See table below.)

| Required Setback  | Proposed Setback                                      |
|---|---|
| 2 times the total height from any property line (396 feet)            | Front: 1,715 feet<br>Side: 396 feet<br>Rear: 396 feet |
| 5 times the total height from any road right-of-way (975 feet)        | 1,715 feet  |
| 1.25 times the total height from any habitable structure (247.5 feet) | 852 feet  |

Siting and Design – Section 21.64.120.C.4 of Title 21 lists siting and design standards requiring: that wind conversion systems not be placed on a visually prominent ridgeline; be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas; consist of colors, to the greatest extent feasible, that minimize disruption of the natural characteristics of the site; and contain air traffic warning lights if the tower exceeds 175 feet in height. The tower is located towards the northwest corner of the subject property and screened from Highway 101 by existing vegetation which will not result in ridgeline development. The California Agricultural Aircraft Association (see subsequent Evidence g) recommends that the tower be painted in seven, equal, alternating bands of aviation orange and white. Although the colors used for the tower and the warning light will not allow the structure to blend into the environment, it is designed to meet the requirement to the greatest extent feasible as safety precautions for health, life, and safety outweigh the regulations of this section. Furthermore, based on Figure 13- of the Central Salinas Valley Area Plan, the subject property is: not a scenic vista, visible from a scenic vista, visible from a state scenic highway, and there are not scenic resources onsite. The MET tower does not include large rotary blades; therefore, noise levels will not be increased as a result of the project.

Abatement – A non-standard condition (Condition No. 7) have been incorporated to require the applicant to submit a bond (in the amount of a cost estimate submitted by the applicant) for removal of the tower should it be abandoned. If the applicant fails to remove the tower, the County shall access the bond to contract for the removal.

- d) The project planner conducted a site inspection on April 8, 2011 to verify that the project on the subject parcel conforms to the plans listed above.
- e) Pursuant to General Plan Policy No. AG-2.1, Agricultural support



facilities (research facilities) shall be considered compatible and appropriate uses. The purpose of the proposed project is for research and the collection of wind data in the Salinas Valley. Therefore, the project is considered a compatible use.

- f) Pursuant to General Plan Policy No. AG- 2.4, agricultural support uses shall be sited and designed to minimize the loss of productive agricultural lands and to minimize impacts on surrounding uses. Installation of the temporary MET tower will be located in an area that is currently void of vegetation and is not proposed for planting in the future. The surrounding uses in the area are viticulture and the proposed use is found to be compatible.
- g) Pursuant to General Plan Policy No. AG-1.8, the proposed project was referred to and heard by the Agricultural Advisory Committee on April 28, 2011 to review the project's compatibility with Farmland zoning. No project issues were identified; however, the Advisory Committee recommended a condition of approval requiring the installation of warning/safety measures for low flying aircraft. The non-standard condition of approval (Condition No. 6) has been incorporated in the project. (Also see Finding No. 3, Evidence c.)
- h) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100609.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, South County Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended by the RMA-Planning Department have been incorporated.
  - b) Based on staff's review of the proposed project and resource material (Central Salinas Valley Area Plan and the Monterey County Geographic Information System) no potential impacts caused by the project were identified. In addition the proposed project is found to be exempt for an environmental review (See Finding No. 5). Therefore, no reports were required to be submitted as part of the lot line adjustment application.
  - c) Staff conducted a site inspection on April 8, 2011 to verify that the site is suitable for this use.
  - d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN100609.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to

property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the South County Fire Protection District, Public Works, Environmental Health Bureau, and Water Resources Agency. No conditions were recommended by the respective departments/agencies to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) Potential safety issues as a result of the erection of a 198-foot MET tower in an area where there are ongoing agricultural activities have been identified. Low flying aircraft, such as aerial pesticide applicators, have the potential to fly into the tower or guy wires due to low visibility. Therefore, the project has been conditioned with a non-standard condition (Condition No. 6) to require striping in seven, equal, alternating bands of aviation orange and white; the installation of a warning light at the top of the tower; maintaining of the entire footprint area and six-feet past the outer anchors free of vegetation; installing marker balls to the guy wires; and installing seven foot safety sleeves on the guy wires at each anchor point. Pursuant to the California Agricultural Aircraft Association, incorporation of this condition will significantly lower the safety hazard.
  - c) There are no necessary public facilities required for the project. Electricity for the data collection and to run the safety light mechanism will be provided by a small solar panel on the tower.
  - d) Preceding Finding Nos. 1, 2 and subsequent Finding No. 5 and supporting evidence for PLN100609.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on April 8, 2011 and researched County records to assess if any violation exists on the subject property.
  - c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN100609.

5. **FINDING:** **CEQA (Exempt):** - The project is categorically exempt from environmental review and no unusual circumstances were identified to exist for the proposed project.

- EVIDENCE:**
- a) California Environmental Quality Act (CEQA) Guidelines Section 15306, categorically exempts data collection activities which do not result in a serious or major disturbance to an environmental resource which are strictly for information gather purposes.
  - b) The proposed meteorological tower will be erected for no longer than two years. The purpose of the tower will be to gather wind data from the Salinas Valley. This meets the uses listed in the aforementioned

CEQA Section 15306.

- c) No adverse environmental effects were identified during staff review of the development application during a site visit on April 8, 2011.
- d) Section 15300.2 of the CEQA Guidelines list exceptions to the exemptions, were projects normally found to be exempt from CEQA may require an environmental review. These exceptions include: project location, cumulative impact, significant effect, scenic highways, hazardous waste sites, or historical resources. The subject property is not located within an officially designated state scenic highway, it is not listed on the Cortese List (for hazardous materials sites) from the Department of Toxic Substances Control (DTSC), nor are there any historic resources located on the site. No environmental resource of hazardous or critical concern was found on the property and no unusual circumstance exists where the project will have a significant effect on the environment. Construction impacts will be temporary; however, the project as proposed and conditioned will not create a significant impact on the environment and cumulative impacts were not identified.
- e) See preceding and following findings and supporting evidence.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Planning Commission.

**EVIDENCE:** Section 21.80.040.B Monterey County Zoning Ordinance (Planning Commission).

#### **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Categorically exempts the Use Permit from environmental review pursuant to CEQA Guidelines Section 15306; and
- B. Approves the Use Permit to allow the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

---

**PASSED AND ADOPTED** this 28<sup>th</sup> day of July, 2011 by:

\_\_\_\_\_  
Mike Novo, Zoning Administrator

COPY OF THIS DECISION MAILED TO APPLICANT ON

THIS APPLICATION IS APPEALABLE TO THE PLANNING COMMISSION.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY OF THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

#### NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 3 years after the above date of granting thereof unless construction or use is started within this period.

Form Rev. 03-28-2011

**Monterey County Planning Department**  
**DRAFT Conditions of Approval/Mitigation Monitoring Reporting Plan**

PLN100609

| Conditions of Approval and/or Mitigation Monitoring Measures | Responsible Department | Compliance or Monitoring Actions to be Performed |
|--|------------------------|--|
|--|------------------------|--|

- |   |                 |  |
|---|-----------------|--|
| <p><b>1. PD001 - SPECIFIC USES ONLY</b><br/>                     This Use Permit, allowing the temporary installation of a 198-foot high Meteorological (MET) Data Collection Tower for approximately two (2) years, was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled.<br/>                     (RMA - Planning Department)</p> | <p>Planning</p> | <p>The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.</p>  |
| <p><b>2. PD002 - NOTICE PERMIT APPROVAL</b><br/>                     The applicant shall record a notice which states: "A Permit (Resolution _____) was approved by the Zoning Administrator for Assessor's parcel number 221-102-013-000 on July 28, 2011. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department."<br/>                     Proof of recordation of this notice shall be furnished to the Director of the RMA - Planning Department prior to issuance of building permits or commencement of the use.<br/>                     (RMA - Planning Department)</p>  | <p>Planning</p> | <p>Prior to the issuance of grading and building permits or commencement of use, the Owner/Applicant shall provide proof of recordation of this notice to the RMA - Planning Department.</p> |

**3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT**

If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery. (RMA - Planning Department)

Planning  
The Owner/Applicant shall adhere to this condition on an on-going basis. Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

**4. PD004 - INDEMINIFICATION AGREEMENT**

The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (RMA - Planning Department)

Planning  
Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Director of RMA-Planning Department for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the RMA-Planning Department.

**5. PDSP001 - PERMIT EXPIRATION (NON-STANDARD)**

The permit shall be granted for a time period of 2 years after final of building permit(s) for the MET tower. Use of the MET tower shall not exceed 2 years. After termination of the use, the applicant shall return the site to its natural state. (RMA - Planning Department)

Planning

Two years after final of building permit(s) for the MET tower, the applicant shall discontinue the use and remove the structure from the site. The area disturbed by development shall be returned to its natural state. The applicant shall notify the RMA-Planning Department once this is complete. Any non-compliance with this condition will result in a violation pursuant to Section 21.84.050 of Title 21.

**6. PDSP002 - SAFETY MECHANISMS (NON-STANDARD)**

The applicant shall submit construction plans for the MET tower which include the following safety standards.

1. Towers must be painted in seven, equal, alternating bands of aviation orange and white. Beginning with orange at the top of the tower, and ending with orange at the base.
2. Owners must have a flashing red light at the top of the tower with a minimum of 3.75km visibility when flashing.
3. The surface area under the entire footprint of the tower and 6' past the outer anchors must be free of vegetation, or planted in vegetation that is distinctly different from the vegetation surrounding the tower
4. Guy wires must have a total of eight marker balls attached as follows: 4 marker balls attached to guide wires at the top of the tower at a distance no further down than 15 feet from the top
5. Guys wires must have a 7" safety sleeve at each anchor point.

These safety standards shall be in place and operating during the time that the MET tower is operational and shall cease upon removal of the tower. (RMA - Planning Department)

**7. PDSP003 - ABATEMENT (NON-STANDARD)**

The applicant, or successors, shall continuously maintain a fund payable to the County of Monterey for the removal of non-functional towers and appurtenant facilities in an amount to be determined by a cost estimate submitted by the applicant for the period of the Use Permit. This fund may consist of a certificate of deposit in a State of California financial institution (as approved under Government Code Section 66499). Interest on said certificate of deposit shall be paid to the applicant, or its successors, but the terms of the certificate shall require that it remain on deposit during the period of the Use Permit. (RMA - Planning Department)

Prior to issuance of building permits, the applicant shall submit construction plans incorporating the safety measures listed within the condition for review and approval by the RMA-Planning Department.

The safety mechanisms shall be in place and operational during the time that the MET tower is in use.

Planning

Planning

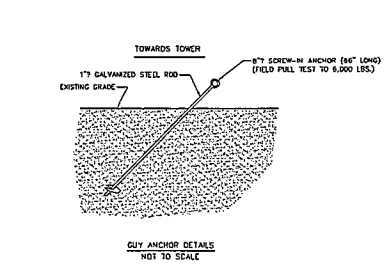
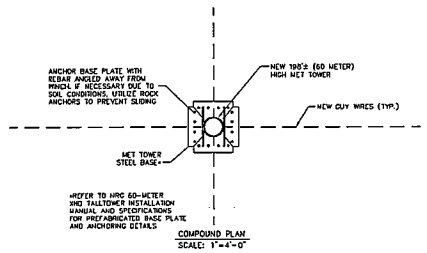
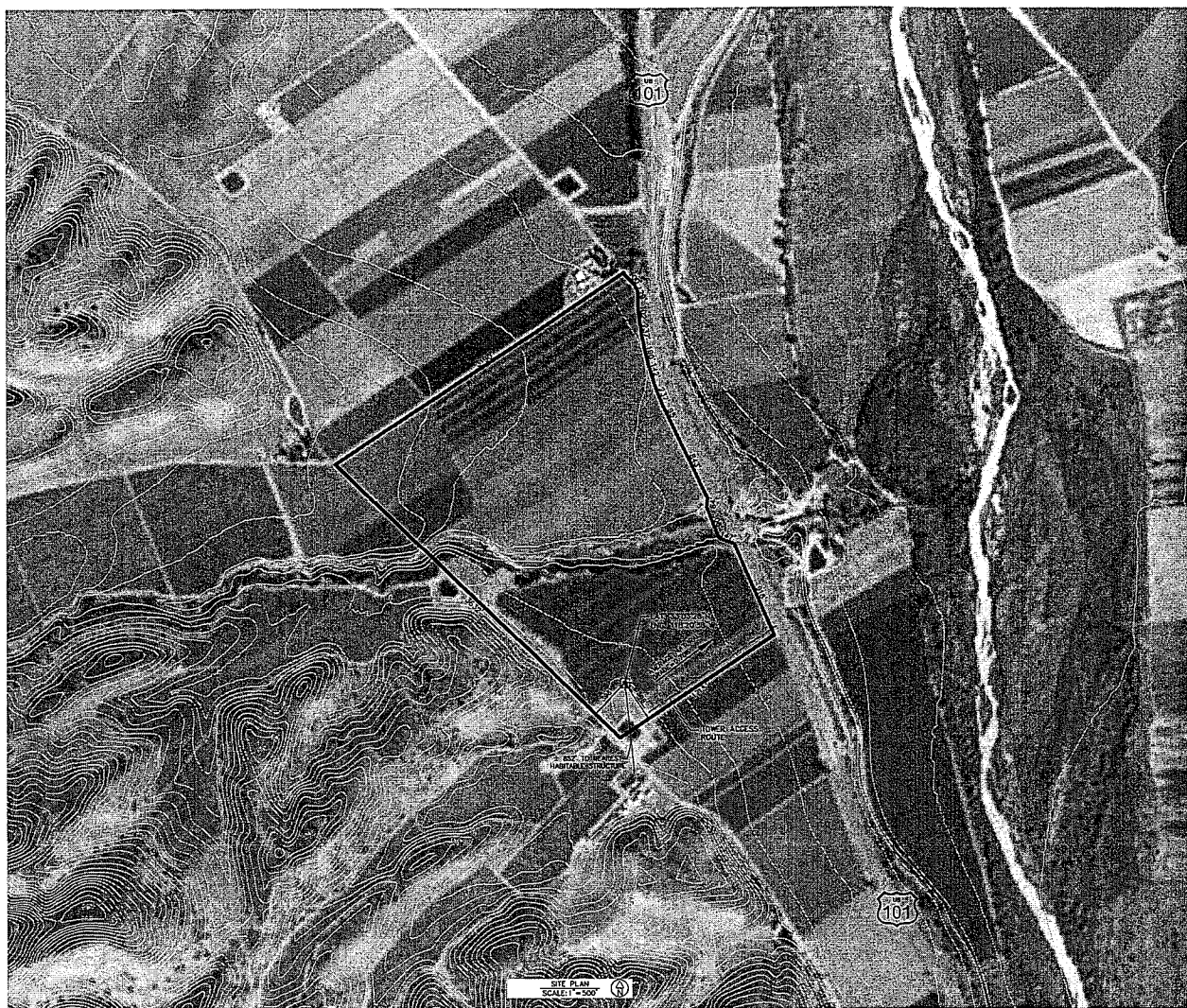
Prior to the issuance of building permits, the applicant shall submit a cost estimate and a bond in that amount, for removal of the tower and appurtenant facilities.

If removal of towers and appurtenant facilities is required and the applicant, permit holder, or successors fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Director of Planning, the Director of Planning may contract for such removal and pay for removal from the fund.

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the cost of removal. By the acceptance of a Use Permit, the permittee or grantor grants a license to the County of Monterey to enter the property to remove a tower pursuant to the terms of the Use Permit and to assure compliance with the other conditions set forth in the permit.

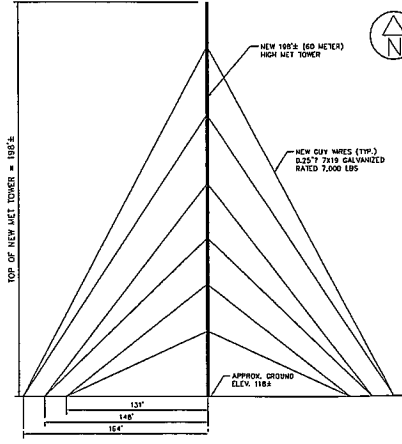
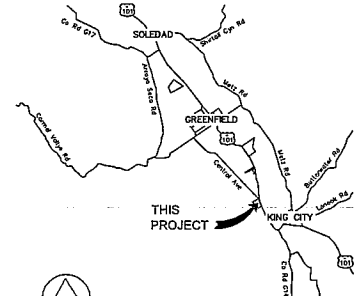
# EXHIBIT E-2

K:\\_SND\_ENV\191579004 - NextEra Monterey Tower\Solinas Land Company\design\Site 9 - Upper Hebert Reservoir\Site 9-UHR.dwg Apr 14, 2011 katie.doneker  
 XREFS: boundary VicMap 01-511-kh-14AD83  
 THIS DOCUMENT, TOGETHER WITH THE CONCEPTS AND DESIGN PRESENTED HEREIN, AS AN INSTRUMENT OF SERVICE, IS INTENDED ONLY FOR THE SPECIFIC PURPOSE AND CLIENT FOR WHICH IT WAS PREPARED. REUSE OF AND IMPROPER RELIANCE ON THIS DOCUMENT WITHOUT WRITTEN AUTHORIZATION AND ADAPTATION BY KIMLEY-HORN AND ASSOCIATES, INC. SHALL BE WITHOUT LIABILITY TO KIMLEY-HORN AND ASSOCIATES, INC.



NOTE: THE MINIMUM DESIGN LOADS FOR THE TOWER PER IBC CHAPTER 16 CODE AND IIA/EIA REV. F CODES ARE AS FOLLOWS:  
 MINIMUM DESIGN WIND SPEED = 100 MPH (3 SECOND GUST WIND)  
 OR 90 MPH (FASTEST MILE WIND) WITH 0" ICE  
 MINIMUM DESIGN WIND SPEED = 80 MPH (3 SECOND GUST WIND)  
 OR 70 MPH (FASTEST MILE WIND) WITH 0.25" ICE

DESIGN WIND SPEED NOTES



| PROJECT DATA SUMMARY TABLE         |                           |
|------------------------------------|---------------------------|
| LOT SIZE                           | 275.13 AC                 |
| GENERAL PLAN LAND USE              | AGRICULTURAL PRESERVE (A) |
| ZONING DESIGNATION                 | F40                       |
| REQUIRED AND PROPOSED LOT COVERAGE | N/A                       |
| GRADING CUT/FILL                   | N/A                       |
| TREE REMOVAL                       | NONE                      |
| REQUIRED AND PROPOSED PARKING      | NONE                      |

TOWER LOCATION  
 LAT: 33°03'39" N  
 LONG: 119°02'30" W

LANDOWNER  
 SALINAS LAND CO.  
 APN: 231-102-013

|                                |
|--------------------------------|
| PROJECT NO.<br>191579004       |
| DRAWING NAME<br>Site 9-UHR.dwg |
| 1 OF 2                         |

**TOWER ASSOCIATES  
 MONTEREY COUNTY, CA.  
 SITE 9 - UPPER HEBERT RESERVOIR**

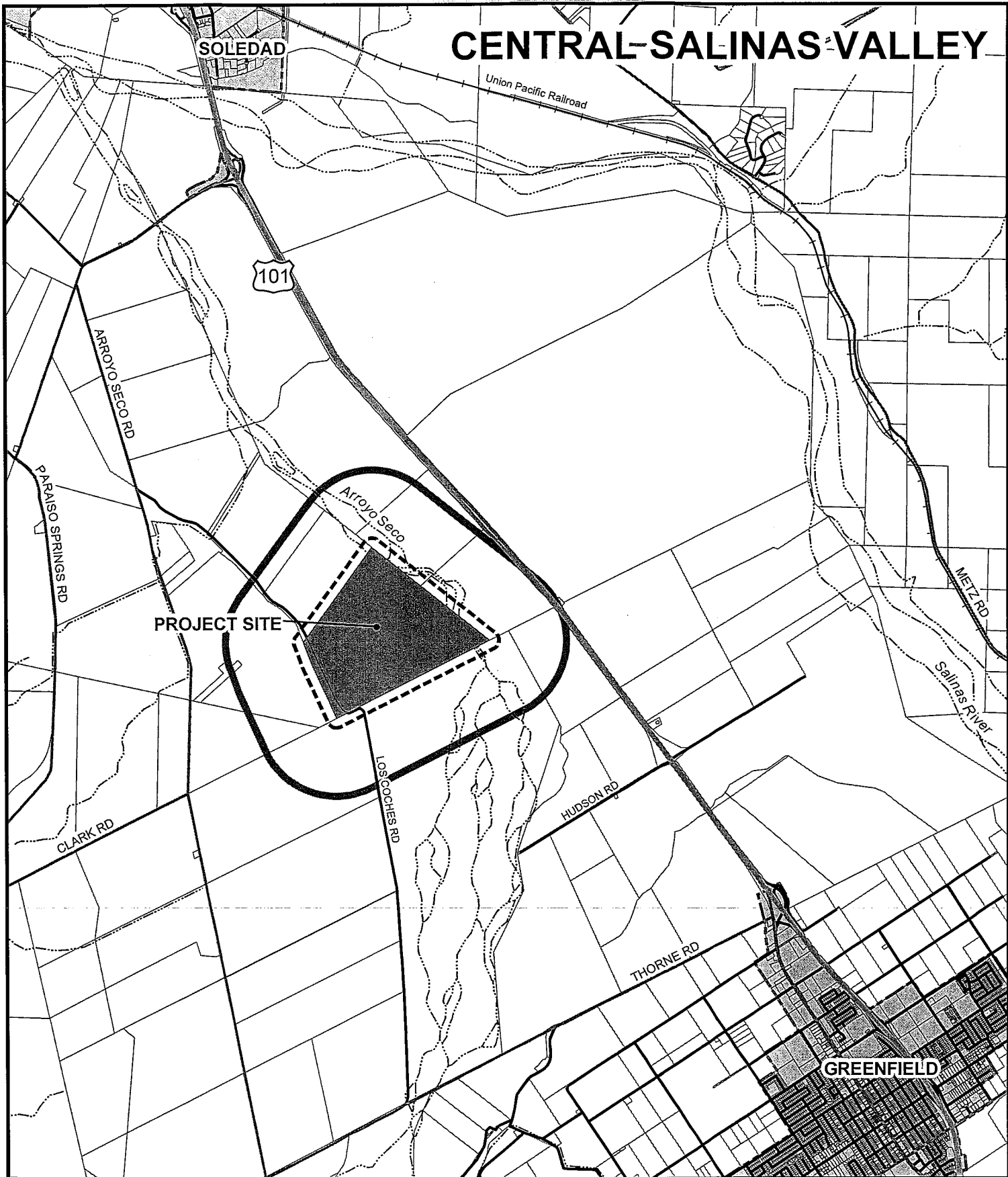
SCALE (H): 1"=500'  
 SCALE (V): NONE  
 DESIGNED BY:  
 DRAWN BY:  
 CHECKED BY:  
 DATE:

**Kimley-Horn  
and Associates, Inc.**  
 © 2010 KIMLEY-HORN AND ASSOCIATES, INC.  
 7878 North 161st Street, Suite 300  
 Phoenix, Arizona 85020 (602) 944-5500

| NO. | REVISION | DATE |
|-----|----------|------|
|     |          |      |
|     |          |      |
|     |          |      |



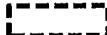
# CENTRAL-SALINAS VALLEY

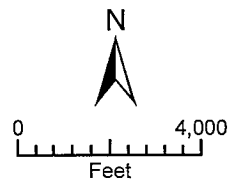


APPLICANT: VENTANA PROPERTY HOLDINGS LLC & GIANOLINI

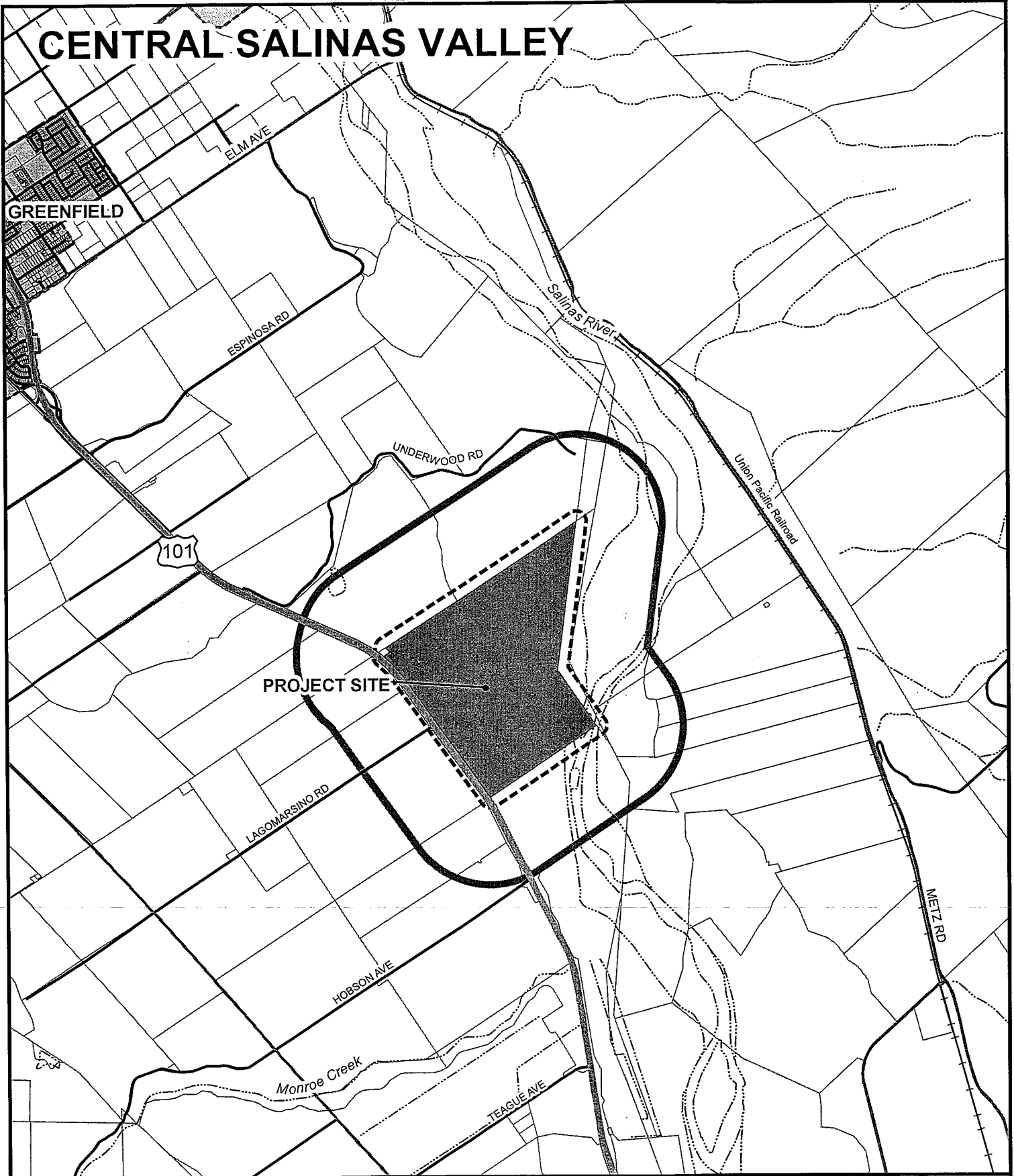
APN: 183-021-035-000 & 183-021-036-000

FILE # PLN100603

 Water
  2500' Limit
  300' Limit
  City Limits



# CENTRAL SALINAS VALLEY

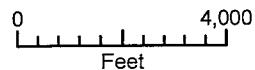


APPLICANT: SMITH-MONTEREY LLC

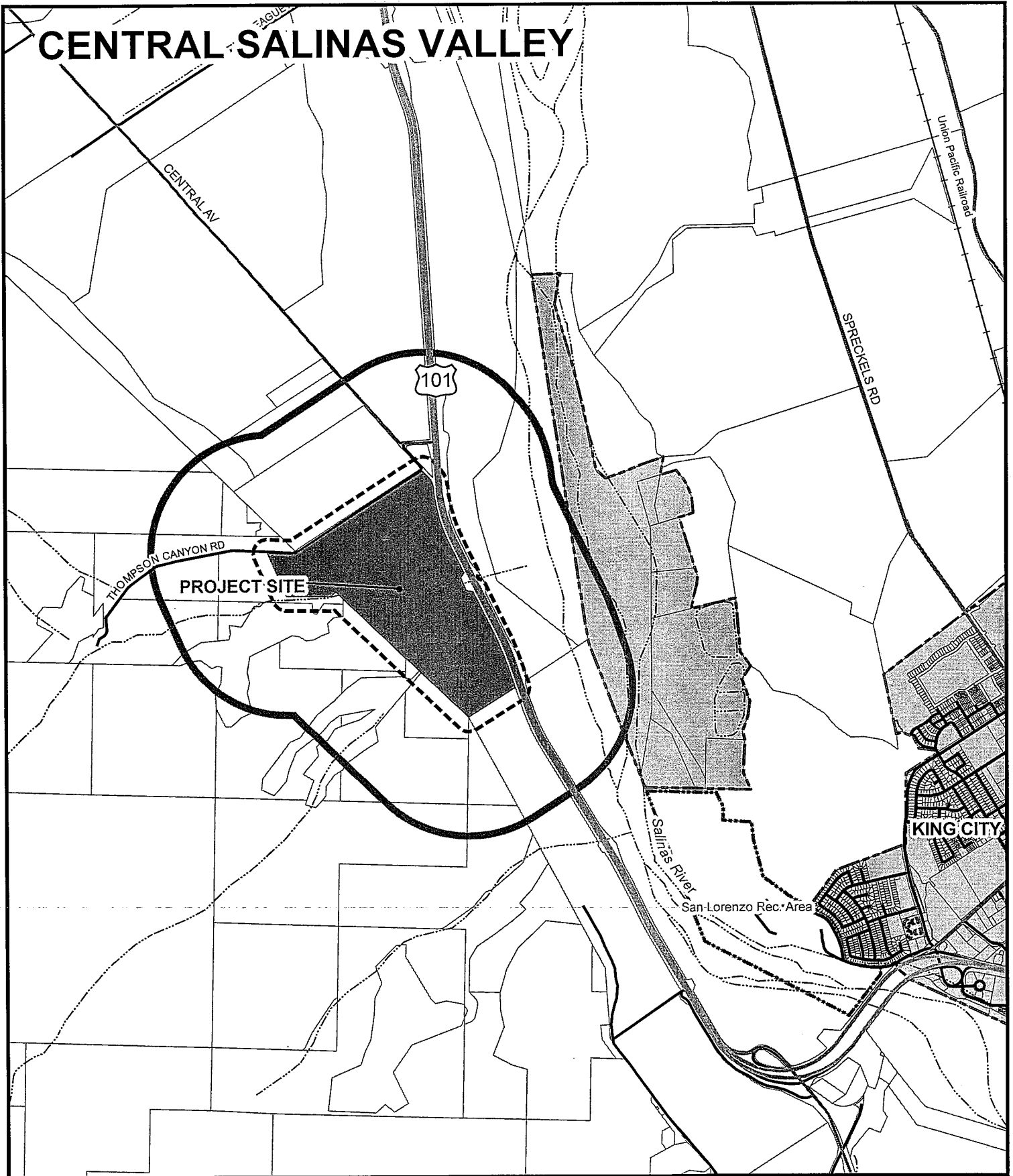
APN: 221-072-005-000

FILE # PLN100607

 Water  
  2500' Limit  
  300' Limit  
  City Limits



# CENTRAL SALINAS VALLEY

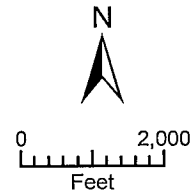


APPLICANT: SALINAS LAND CO.

APN: 221-102-013-000

FILE # PLN100609

 Water  
  2500' Limit  
  300' Limit  
  City Limits



# EXHIBIT G

## MONTEREY COUNTY AGRICULTURAL ADVISORY COMMITTEE (AAC)

Agricultural Center Conference Room  
1428 Abbott Street, Salinas, CA 93901

April 28, 2011; 1:30 p.m.

### MINUTES

| Members           | Present | Guests & Staff         | Affiliation                        |
|-------------------|---------|------------------------|------------------------------------|
| Tom Am Rhein      | ✓       | Bob Eaton              | Eaton Ranch                        |
| John Baillie      | -       | Sheryl Ainsworth, Esq. | Counsel for Mr. Eaton              |
| Chris Bunn        | ✓       | Steve Mason            | Planning Department                |
| Steve de Lorimier | ✓       | Bob Schubert           | Planning Department                |
| Alexandra Eastman | ✓       | Anna Quenga            | Planning Department                |
| Kurt Gollnick     | -       | Eric Lauritzen         | Agricultural Commissioner          |
| Bill Hammond      | -       | Bob Roach              | Agricultural Commissioner's Office |
| Mike Manfre       | -       | Dawn Mathes            | Agricultural Commissioner's Office |
| Steve McIntyre    | ✓       | Kathy Nielsen          | Agricultural Commissioner's Office |
| Mike Miller       | -       |                        |                                    |
| Manuel Morales    | ✓       |                        |                                    |
| Scott Violini     | -       |                        |                                    |
| Ridge Watson      | ✓       |                        |                                    |

#### I. Call to Order

The meeting was called to order at 1:35 p.m.

#### II. Approval of Minutes from January 27, 2011, Meeting

The meeting minutes were unanimously approved without correction.

#### III. Public Comments (items not on the agenda)

There were no public comments.

#### IV. Agricultural Commissioner's Update

*Eric Lauritzen, Agricultural Commissioner*

- Welcome to our new Committee members: Steve de Lorimier, appointed by Supervisor Lou Calcagno and Steve McIntyre, representing the Monterey County Vintners and Growers Association.
- The Crop Report is tentatively scheduled to be presented to the Board of Supervisors on 6/14/2011 and a press briefing will be held earlier in the morning that same day.
- Newly-appointed Agriculture Secretary Karen Ross was in town this month with Senator Canella. A meeting at the D'Arrigo Bros. office was held; Secretary Ross indicated that the State budget is problematic. CDFA has been directed to take \$15 million of cuts this coming

year and another \$15 million the following year. Consequently, CDFA is focusing its limited resources on how to accomplish the core missions of the department: plant pest/disease prevention and animal disease protection. The State budget impacts us at the local level relative to contracts that we have for our local pest detection programs.

- The Agricultural Commissioner met with Chief Deputy Director, Legislative Director, and Chief Wildlife Representative at the Department of Fish and Game regarding feral pigs. Feral pigs cause serious environmental damage. This issue may be brought to the AAC in the future for information and/or a recommendation.
- The Agricultural Commissioner participated in a tour of Monterey County agriculture with new Assemblymember Luis Alejo on 4/14/2011 which was coordinated by Supervisor Salinas and Chris Lopez. Assemblymember Alejo brought a total of approximately 15 people, including his District and Sacramento staff as well as a representative of the Speaker.
- At the request of Salinas Mayor Dennis Donahue, the Agricultural Commissioner spoke at the Ag 2.0 conference in San Francisco. The focus of the conference was on opportunities for venture capitalist investment in agriculture.

## V. Planning Department

### A. Eaton Ranch (Bob Schubert) PLN05037

This project was referred back to the AAC by the Zoning Administrator to re-evaluate the Committee's previous compatibility determination with respect to the disposal of animal waste and the utilization of compost.

Originally, the composted animal waste was to be spread upon approximately 58 acres; the Committee found the utilization of compost to be a positive aspect of the project's compatibility with the agricultural operation.

It was brought to the attention of staff that two additional regulatory agencies, the Regional Water Quality Control Board and the California Department of Fish and Game (DFG) may have potentially conflicting regulatory requirements and project preferences. Planning Department staff's discussion with the RWQCB indicated that the RWQCB prefers compost to be incorporated into the soil. Incorporation is not recommended by DFG, however, due to potential impacts to tiger salamanders. Based on the conversations between Planning and RWQCB staff, Planning staff revised the project to require the applicant haul the compost off site, to which the applicant was agreeable.

The applicant went before the Zoning Administrator on 4/14/2011 with the new requirement to haul compost off site. At the suggestion of Bob Roach, Assistant Ag Commissioner, it was recommended that the project go back to the Ag Advisory Committee because of the change in the manure management plan, which was originally considered as part of the Ag Advisory Committee's determination of compatibility. The Ag Advisory Committee originally noted the following Principles of Compatibility:

1. The Project will not significantly compromise long-term agricultural productivity compatibility of this ranch or other properties in the area;
2. The manure spreading and planting would likely increase the capacity for carrying cattle;
3. The project will provide crucial financial support to sustain the Eaton Ranch and thus the cow/calf operation;
4. Less than 3% of the total acreage will be utilized for the project;

5. No additional roads or paved areas, and
6. The project will not result in significant removal of adjacent contracted land from agricultural or open space use.

Additionally, the Agricultural Commissioner's office raised question about the precedent of the County Planning Department setting forth project conditions that would preclude an agricultural operation from spreading compost on their property.

The Zoning Administrator continued the project until 4/29/2011 to hear the recommendation of the AAC.

Planning staff revised the project description, and instead of requiring compost to be hauled off site, included an *option* (not requirement) for the applicant to haul the animal waste off site as part of the current project description to be considered by the Ag Advisory Committee for compatibility.

**MOTION:** A motion was made by Chris Bunn that the revised project description was still compatible with the agricultural uses of the property. The motion was seconded by Dr. Alex Eastman.

AYES: 7  
NOES: 0  
ABSENT: 6

B. Meteorological (MET) Data Collection Towers (Anna Quenga)

A brief overview of the project was provided. This project, which encompasses three parcels, will not take land out of production and is temporary in duration (two years).

The Planning Department sought input from the Committee on safety measures that should be required of MET towers in agricultural areas. Of particular concern is parcel 607, where tower placement would be in close proximity to row crops.

PLN100603 – Located outside land planted with vineyards; tower placement would be in the Salinas River Flood Plain; reviewed by the Water Resources Agency and conditioned by them requiring further engineering; no land taken out of production due to tower placement.

PLN100607 – Located between Greenfield and King City (east of Highway 101 just past Underwood Road); tower placement would be in an area not currently in production but in the middle of row crops.

**MOTION:** A motion was made and amended by Ridge Watson and seconded by Tom AmRhein directing Staff to consult with aerial applicators about adequate lighting and necessary safety measures on MET towers in agricultural areas.

AYES: 7  
NOES: 0  
ABSENT: 6

**VI. Conditional Waiver of Waste Discharge Requirements**

*Dawn Mathes, Ag Program Manager, Agricultural Commissioner's Office*

At the request of Supervisor Simón Salinas, the Agricultural Commissioner's Office was requested to revise our previous Economic Impact Analysis related to the buffer requirements of the Regional Water Quality Control Board's (RWQCB) proposed waiver.

The RWQCB changed their proposed buffer requirements, now requiring between 30 and 50 feet of buffers, or buffers "as necessary." Our analysis was conducted based on these new requirements. Eric Lauritzen presented the analysis to the RWQCB in March. In addition, issues were raised with the RWQCB such as the incorrect use of our data and inaccurate citations.

At this time, there has been no response to either of our letters sent to the RWQCB.

**VII. March Flood Damage Survey Questionnaire Review**

*Dawn Mathes, Ag Program Manager, Agricultural Commissioner's Office*

Our office is developing a survey to assess the agricultural damages caused by recent floods. Frank Pierce conducted a quick analysis with aerial picture and estimated 1,422 acres were flooded by the river and 38 acres were flooded from runoff. The Committee was asked for their input on the draft survey questionnaire.

It was recommended that the following changes be made to the questionnaire: include crop lands, include Email address, include APN as an optional item; include dates of impact, and include the preferred method of future communication (email or mail).

**VIII. Administrative Matters**

There are several members whose terms will expire 6/30/2011 and are eligible to continue. It was requested that this item be placed on the May meeting agenda to include those members' names.

Committee members were reminded of their obligation to complete two hours of ethics training. Reminder emails will be sent.

**IX. Adjournment**

There being no further business before the Committee, the meeting was adjourned at 3:00 p.m.

The next scheduled meeting is May 26, 2011.

Respectfully submitted,

*Kathy Nielsen*

Kathy Nielsen  
Monterey County Agricultural Commissioner's Office